IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 23273 of 2006

DATED: 10.11.2006

Between:

A.V.Rao petitioner

And

APSRTC, Musheerabad
Hyderabad rep by its Managing Director & ors Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 23273 of 2006

ORAL ORDER :

The petitioner is working as Driver with the respondents-APSRTC. While discharging his duties as driver, the third respondent herein directed him to attend periodical medical examination. Accordingly, the petitioner attended the periodical medical examination. The Medical Officer, APSRTC, Dispensary at Eluru vide Medical Certificate No. 039742 dated 3.8.2005 declared the petitioner as medically unfit for the post of A-1 driver due to defective distance vision of both eyes, and he was kept under compulsory leave from 4.8.2006. The petitioner preferred an appeal and the Superintendent, Tarnaka Hospital, Hyderabad vide letter dated 19.9.2005 declared the petitioner unfit for the post of
A-1 category driver post. Thereafter, the petitioner submitted a review and he was directed to appear before the Medical Board, Hyderabad. The Medical Board, vide proceedings dated 20.12.2005 declared the petitioner unfit to the post of A-1 driver.
In turn, the petitioner was retired on medical grounds w.e.f. 29.8.2006. Thereafter, on 15.5.2005, the petitioner made a representation to the second respondent to provide alternative employment as per Section 47 of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1 of 1995 (for short 'the Act'). Since no action is taken on the said representation and the respondents are not permitting him to attend the duties, he filed the present writ petition.

Learned counsel for petitioner submitted that in terms of Section 47 of the Act, the respondents are under an obligation to provide alternative employment and placed reliance on judgment of this Court in N.Siva Kumar Vs. APSRTC, Musheerabad and others[1].

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

This Court in N.Siva Kumar's case considered similar issue and directed the authorities to consider the case of the employee in the light of the provisions of the Act for alternative employment. The relevant portion reads as under;

> "Having regard to the fact that a right has been conferred upon the appellant herein under a statute, although the question raised herein has not been raised before the learned single Judge, we, in modification of the order passed by the learned single Judge, direct the appellant herein to file a representation, if not already filed, before the appropriate authority seeking the relief prayed for in this appeal, and on receipt of such a representation, the appropriate authority may consider the case of the appellant in the light of the aforementioned provisions and the decisions referred to hereinbefore, and pass an appropriate order at an early date, preferably within a period of four (4) weeks from the date of communication of this order."

In the present case, the representation dated 15.5.2005 made by the petitioner, seeking alternative employment as per Section 47 of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1 of 1995 (for short 'the Act'), is said to be pending consideration before respondent No.2. Hence, I deem it appropriate to dispose of the writ petition directing respondent No.2 to consider the representation of the petitioner dated 15.5.2005 and pass appropriate speaking orders in accordance with law particularly in the light of Section 47 of the Act, as expeditiously as possible, preferably within a period of three months from the date of receipt of copy of this order.

With the above direction, the writ petition is disposed of.

No costs.

N.V. RAMANA, J.

Date:10.11.2006

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[1] 2001 (3) ALD 166 (DB)